

## PRESS STATEMENT

We wish this day had never come. In the framework of our constitutional fabric the judiciary holds a very special place. Its independence is a constitutional imperative without which democracy will flounder. It must guard and protect itself from external interference and must be above suspicion. This is why judges must uphold the highest standards of integrity. They must also be tested by the same standards. In the scheme of things within the judicial set up, the office of the Chief Justice is an exalted position. He is one among equals on the judicial side but has vast powers on the administrative side.

Since Chief Justice Dipak Misra was appointed to this high office, there have been situations when questions have been raised about the manner in which he has dealt with certain cases and taken certain administrative decisions. There have been internal rumblings resulting in open discord amongst judges in the Supreme Court. This manifested itself when four senior-most judges held a press conference on January 12, 2018 where they publicly expressed their disquiet about the manner in which the Chief Justice was exercising his powers. In this context, they circulated a letter to the press that they had addressed to the Chief Justice. In the letter, one of the concerns expressed by the judges was about attempts to unsettle through a judicial order the Memorandum of Procedure which stood settled. The judges stated that for some time, the administration of the Supreme Court has not been in order and many things which are less than desirable have been happening. They said that time and again, as senior members of the Court holding a responsibility to this country, they tried to collectively persuade the Chief Justice that certain things are not in order and that he must take remedial measures. They lamented that their efforts had failed and all four of them were convinced that unless the institution is preserved, democracy will not survive in this country. When asked, they expressed dissatisfaction at the manner in which Late Judge Loya's case was being dealt with at the time.

We were hoping that the anguish of the judges as reflected in their statements to the Press would be addressed by the Chief Justice and the Chief Justice in response would set his house in order. More than three months have passed. Nothing has changed.

Recent communications of two senior judges to the Chief Justice reveal that the Chief Justice has not asserted the independence of the judiciary in the face of interference by the executive.

When the judges of the Supreme Court themselves believe that the judiciary's independence is under threat and democracy in peril, alluding to the functioning of the office of the Chief Justice of India, should the nation stand still and do nothing? Should the people of this country allow the institution to diminish and not protect it both from within and without? That is what we were confronted with when

contemplating action to ensure the independence of the institution that protects the rights of citizens and is the arbiter of the fate of the democracy we cherish. The choice was not easy because either way, the repercussions are serious.

The Constitution allows only one recourse to remedy the situation. Since there is no other way to protect the institution except to move an impeachment motion, we, members of the Rajya Sabha, do so with a heavy heart.

We took upon ourselves to move the impeachment motion in the background set out above but on the basis of charges of acts of misbehaviour that are set out in the impeachment motion. We do not wish to repeat those charges here in detail. We only wish to state that any one occupying the office of the Chief Justice of India must be judged on the basis of the highest standards of integrity. The charges as stated suggest conduct unbecoming of a person holding the office of the Chief Justice of India. The first charge relates to the conspiracy to pay illegal gratification by persons in relation to the Prasad Education Trust case and the manner in which the case was dealt with by the Chief Justice. It is on record that the CBI has registered an FIR. There are several recorded conversations between middlemen including a retired judge of the Orissa High Court excerpts of transcripts of which are set out in the articles of charge. References to the Chief Justice by innuendo in these conversations are evident. The denial of permission to the CBI to register an FIR against Justice Narayan Shukla of the Allahabad High Court, when the CBI shared incriminating information with the Chief Justice was itself an act of misbehaviour. All this requires a thorough investigation.

The second charge relates to the Chief Justice having dealt on the administrative as well as on the judicial side with a writ petition which sought an investigation into the matter of Prasad Education Trust, in which he too was likely to fall within the scope of investigation. The practice in the Supreme Court is that when the Chief Justice is in a Constitution Bench, and matters are to be listed, requests for listing are made before the first puisne judge. This is an age-old practice. On November 9, 2017, when a writ petition was mentioned before Justice Chelameswar at 10:30 AM since the Chief Justice was sitting in a Constitution Bench, the same was directed to be listed later the same day. When the matter was taken up, a note dated November 6, 2017 was placed before the judges hearing the matter by an official of the Registry. This is the basis of the third charge alleging that the note of November brought to the attention of Justice Chelameswar on 9 November as the matter was taken up was antedated. The charge of antedating is by all accounts a very serious charge.

The fourth charge relates the Chief Justice having acquired land when he was an Advocate by giving an affidavit which was found to be false. Further, despite the orders of the ADM cancelling the allotment in 1985, the Chief Justice surrendered the land only in 2012 after he was elevated to the Supreme Court.

The fifth charge relates to the abuse of exercise of power by the Chief Justice in choosing to send sensitive matters to particular benches by misusing his authority as Master of the Roster with the likely intent to influence the outcome.

As representatives of the people, we are entitled to hold the Chief Justice accountable just as we are accountable to the people. The majesty of the law is more important than the majesty of any office.

We hope that a thorough enquiry will be held so that truth alone triumphs. Democracy can thrive only when our judiciary stands firm, independent of the executive, and discharges its constitutional functions honestly, fearlessly and with an even hand.